

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Queen of Apostles School)	File No. SLD-156906
Alexandria, Virginia)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.)	

ORDER

Adopted: January 14, 2003

Released: January 15, 2003

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by Queen of Apostles School (Apostles School), Alexandria, Virginia.¹ Apostles School seeks review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) to reject Apostles School's appeal on the grounds that it was untimely filed.² For the reasons set forth below, we deny Apostles School's Request for Review.

2. SLD issued a Funding Commitment Decision Letter on May 26, 2000, approving Apostles School's request for discounted services under the schools and libraries universal service support mechanism.³ Specifically, SLD approved Apostles School's request for discounts for telecommunications services, Funding Request Number (FRN) 338721, but reduced the funding commitment to reflect what was in the documentation provided by Apostles School.⁴ On September 21, 2001, Apostles School filed an appeal of SLD's decision.⁵ In its

¹ Letter from Craig Wojay, Queen of Apostles School, to Federal Communications Commission, filed March 5, 2002 (Request for Review).

² See Request for Review. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

³ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Mary West, Queen of Apostles School, dated May 26, 2000 (Funding Commitment Decision Letter).

⁴ *Id.*

appeal, Apostles School asserts that it provided documentation to SLD for FRN 338721 and that SLD only considered one phone bill instead of the two phone bills with which it was provided and, as a result, SLD cut the funding request by approximately 50 percent.⁶ On October 15, 2001, SLD issued an Administrator's Decision on Appeal, indicating that it would not consider Apostles School's appeal because it was received more than 30 days after the May 26, 2000 Funding Commitment Decision Letter was issued.⁷ Apostles School subsequently filed the instant Request for Review with the Commission.

3. For requests seeking review of decisions issued before August 13, 2001 under section 54.720(b) of the Commission's rules, an appeal must be filed with the Commission or SLD within 30 days of the issuance of the decision that the party seeks to have reviewed.⁸ Documents are considered to be filed with the Commission or SLD only upon receipt.⁹ The 30-day deadline contained in section 54.720(b) of the Commission's rules applies to all such requests for review filed by a party affected by a decision issued by the Administrator.¹⁰ Because Apostles School failed to file an appeal of the May 26, 2000 Funding Commitment Decision Letter within the requisite 30-day appeal period, we affirm SLD's decision to dismiss Apostles School's appeal to SLD as untimely and deny the instant Request for Review.

4. To the extent that Apostles School is requesting that we waive the 30-day deadline established in section 54.720(b) of the Commission's rules, we deny that request as well.¹¹ The Commission may waive any provision of its rules, but a request for waiver must be supported by a showing of good cause.¹² Apostles School has not shown good cause for the untimely filing of its initial appeal. Apostles School explains that, due to circumstances beyond the control of Apostles School, the person responsible for filing all forms and other documents

⁵ Letter from Craig Wojay, Queen of Apostles School, to Schools and Libraries Division, Universal Service Administrative Company, filed September 21, 2001 (Request for Administrator Review).

⁶ *Id.*

⁷ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Craig Wojay, Queen of Apostles School, dated October 15, 2001 (Administrator's Decision on Appeal).

⁸ 47 C.F.R. § 54.720(b).

⁹ 47 C.F.R. § 1.7.

¹⁰ Due to recent disruptions in the reliability of the mail service, the 30-day appeal period has been extended by an additional 30 days for requests seeking review of decisions issued on or after August 13, 2001. See *Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, FCC 01-376 (rel. December 26, 2001), as corrected by *Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata (Com. Car. Bur. rel. December 28, 2001 and January 4, 2002); SLD website, What's New (January 20, 2002), <<http://www.sl.universalservice.org/whatsnew/012002.asp#extend3ed>>. Because the May 26, 2000 Funding Commitment Decision Letter was issued before August 13, 2001, the extended appeal period does not apply to Apostles School.

¹¹ See 47 C.F.R. § 54.720(b).

¹² See 47 C.F.R. § 1.3.

required for E-Rate support failed to timely file an appeal of the Funding Commitment Decision Letter.¹³

5. We conclude that Apostles School has not demonstrated a sufficient basis for waiving the Commission's rules. Waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.¹⁴ In requesting funds from the schools and libraries universal service support mechanism, the applicant has certain responsibilities. The applicant bears the burden of submitting its appeal to SLD within the established deadline if the applicant wishes its appeal to be considered on the merits.

6. The particular facts of this case do not rise to the level of special circumstances required for a deviation from the general rule. In light of the thousands of applications that SLD reviews and processes each year, it is administratively necessary to place on the applicant the burden of adhering strictly to its filing deadlines.¹⁵ In order for the program to work efficiently, the applicant must assume responsibility for timely submission of its appeal to SLD if it wishes its appeal to be considered on the merits. An applicant must take responsibility for the action or inaction of those employees, consultants and other representatives to whom it gives responsibility for submitting timely appeals of SLD funding decisions on its behalf. Here, Apostles School fails to present good cause as to why it could not timely file its appeal to SLD. We therefore find no basis for waiving the appeal filing deadline.

7. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Request for Review filed by Queen of Apostles School, Alexandria, Virginia on March 5, 2002, and the request to waive the 30-day time limit in which to file an appeal ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert
Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

¹³ Request for Review.

¹⁴ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

¹⁵ See *Request for Review by Anderson School Staatsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610 (Com. Car. Bur. rel. Nov. 24, 2000), para. 8 ("In light of the thousands of applications that SLD reviews and processes each funding year, it is administratively necessary to place on the applicant the responsibility of understanding all relevant program rules and procedures.").